(1)

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

M.C.C. NO. 276 OF 2005

(ARISING OUT OF W.P.NO. 4612/2005)

PR. 2964/05

(5)

APPLICANT : President, Mahamritunjay Mahila, Machhua Sahkari Samiti Village Panchayat Bacchoud, Janpad Panchayat Baloda, District Janjgir-Champa (C.G.).

RESPONDENT NO.7

VERSUS

RESPONDENTS:

1. State of Chhattisgarh, Through: The Secretary, Panchayat & Gramin Vikas Vibhag, D.K.S. Bhawan, Raipur (C.G.).
2. Director, Panchayat & Gramin Vikas Vibhag, D.K.S. Bhawan, Raipur (C.G.).
3. Upper Collector, Janjgir-Champa, District Janjgir-Champa (C.G.).
4. Chief Executive Officer, Janpad Panchayat Baloda, District Janjgir (C.G.).
5. Fishery Inspector, Baloda, Tahsil Janjgir, District Janjgir-Champa (C.G.).
6. Gram Panchayat Bachhoud, Vikas Khand Baloda, Through Sarpanch, Gram Panchayat Bachhoud, Vikas Khand Baloda.

PETITIONER

7. Mohammed Sultan Son of Shri Mohammed Hanif Khan, aged about 45 years, Resident of Link Road, Bilaspur, District Bilaspur (C.G.).
8. Assistant Director, Fishery Industry, Janjgir-Champa.

(2)

(6)

APPLICATION FOR REVIEW OF ORDER DTD. 07.11.2005, PASSED IN WRIT PETITION NO. 4612/2005, "MOHAMMED SULTAN V/S. STATE OF C.G. & OTHERS"

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक M.C.C. NO. 276 सन् 2005

विरुद्ध

(102)

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

13-2-2006 (In chamber)

Mr. U.K.S. Chandel with Mr. Ashok Soni, counsel for the applicant/ respondent No.7 - President, Mahamritunjay Mahila Machhua Sahkari Samiti.

Mr. J.D. Bajpayee, Govt. Advocate for the State/non-applicants No.1 to 5 and 8.

Mr. Prakash Mishra, counsel for non-applicant No.6 - Gram Panchayat, Bachhoud.

Mrs. Renu Kochar, counsel for non-applicant No.7/writ petitioner - Mohd. Sultan.

I.A.No.611/2006, application for taking documents on record, is allowed. Documents are taken on record.

Heard on M.C.C.No.276/2005, whereby respondent No.7 in W.P. No.4612/2005 has requested for modification of the earlier order dated 7-11-2005. While dismissing Writ Petition No.4612/2005 of petitioner Mohd. Sultan on the statement made by counsel for the petitioner that the petitioner has already put the seeds, the petitioner was allowed to take fishes from the tank till February, 2006. At that time, notice was not issued to respondent No.7 in W.P.No.4612/2005, therefore, aggrieved by that order, respondent No.7 i.e. President, Mahamritunjay Mahila Machhua Sahkari Samiti has moved this application (M.C.C.No.276/2005).

Vide order dated 3-2-2006 passed in M.C.C.No.276/2005, the Secretary, Gram Panchayat: Bachhoud was directed to ascertain the correctness of the fact whether respondent No.7 herein (petitioner in W.P. No.4612/2005) put the seeds in the tank in question in the year 2004 or not and submit his report within a period of one week. In response to that order, a written response has been filed on

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विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

behalf of respondent No.6 Gram Panchayat: Bachhoud in which it has been mentioned that initially six tanks of Village: Bachhoud were given to the applicant herein (respondent No.7 in the writ petition) for ten years and thereafter, vide order dated 11-2-2004 tanks were given to the writ petitioner i.e. respondent No.7 in this application, but he has not deposited the lease money even after issuance of three notices by the Panchayat, Bachhoud, and on 10-9-2004 meeting of Village Panchayat was held and the tank in question allotted in favour of the writ petitioner (respondent No.7 herein) was cancelled. Even the possession was also not given to the writ petitioner by the Panchayat.

Mrs. Renu Kochar, learned counsel for Mohd. Sultan was asked to show whether lease money was deposited or not, then she has stated that Mohd. Sultan is not in possession of any Pakka receipt, a Kachha receipt was given, that means no amount has been deposited in the account of the Panchayat. Moreover, as per the fisheries policy and instructions, before putting the seeds, same was required to be purchased from the Government Department.

In the given situation, when as per the reply of Gram Panchayat: Bachhoud, Mohd. Sultan has not deposited any money and no possession was given to him, therefore, no question of putting seed by him arose.

In view of the above, the order passed in favour of Mohd. Sultan that he be allowed to take out the fishes till February, 2006 is recalled and the order dated 7-11-2005 whereby the writ petition was disposed of is modified to that extent.

M.C.C.No.276/2005 is disposed of accordingly.

In view of this order, M.(C.)P.No.1764/2005 also stands disposed of.

Parties are entitled for certified copy of this order.

Sd/-
L.C.Bhadoo
Judge

Soma